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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of the Non-) CC Docket No. 96-149
Accounting Safeguards of)
Sections 271 and 272 of the)
Communications Act of 1934,)
As Amended)

REPLY OF SPRINT

Sprint Communications Company L.P. ("Sprint")
respectfully submits its reply comments in response to the
Commission's November 8, 2000 Public Notice in the above-
captioned proceeding.¹

As a number of commenters (AT&T, WorldCom, CompTel,
Level 3) have pointed out, Section 271 is a critically
important tool in opening local Bell Operating Company
(BOC) markets to competition. For the Commission to adopt
a position that the interLATA ban in Section 271 did not
include information services within interLATA service
would, as the D.C. Circuit explained create an "enormous
loophole" in one of the core provisions of the

¹ See Public Notice, Comments Requested in Connection with Court Remand
of Non-Accounting Safeguards Order, DA 00-2530, released November 8,
2000 ("Public Notice").

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Telecommunications Act.² This is because the BOCs could evade the requirements of Section 271 "by simply packaging [interLATA] service with some other noninterexchange telecommunications service or even nontelecommunications service." *Id.* In a world where electronic services of all kinds are moving ever more quickly onto internet protocol based networks, it will be increasingly easier to turn any telecommunications service into an information service.

If information services were not included as a subset of interLATA service, the BOCs could easily render Section 271 superfluous. Given the clear purpose of the 1996 Act to use Section 271 as a fulcrum for opening local markets to competition, it is inconceivable that the Congress intended such a result.

The contrary argument is based on what is purportedly a "straightforward" reading of the definition of the term "interLATA service" as found in Section 271. For reasons explained in the comments of AT&T and others, this argument is unavailing. And, in some respects, it is surprising to see it made with such apparent self-assurance.

² *United States v. Western Electric Co.*, 907 F.2d 160 (1990) at 163.

If it were true, as the Bell Atlantic Telephone Companies and Qwest Communications International, Inc. urged at page 22 of their brief to the court in this proceeding, that "this is a case of clear statutory meaning," the petitioners at a minimum came late to this understanding. Petitioners are, of course, entitled to change their position. But, this is a critically important issue to all of the parties. If the matter were as clearly stated in the statute as the petitioners now suggest, it is remarkable that they were ignorant of the rights granted them until so recently.

As more than one circuit court has observed, the Telecommunications Act of 1996 is not a model of clarity.³ In these circumstances, as the court explained in *Cablevision of Boston*, "the task of statutory interpretation involves more than the application of syntactic and semantic rules to isolated sentences. Even plain meaning can give way to another interpretation if necessary to effectuate Congressional intent." 184 F.3d at

³ See, e.g., *Cablevision of Boston v. Public Improvement Commission*, 184 F.3d 88, 99-100 (1st Cir. 1999) (Telecommunications Act is "extremely complex and its provisions highly interrelated"); *Bell Atlantic Telephone Companies, et al. v. FCC*, 131 F.3d 1044, 1045 (D.C. Cir. 1997) (referring to a "poorly drafted section of the Telecommunications Act of 1996").

101. Not only must the Commission interpret the statute here, but its original interpretation remains unquestionably sound and should therefore remain unchanged.

Respectfully submitted,

Sprint Communications Company
L.P.

By:  _____

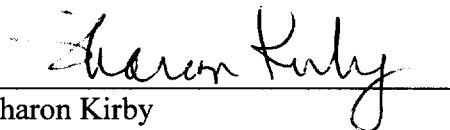
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December 11, 2000

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent by United States first-class mail, postage prepaid, or Hand Delivery on this 11th day of December, 2000 to the following parties.


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